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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/996,488	11/28/2001	Stacy Scott	P12699-PUSBN	2701

7590   10/19/2004

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EXAMINER
MEHRA, INDER P

ART UNIT	PAPER NUMBER
2666	

DATE MAILED: 10/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

		Application No.	Applicant(s)
Office Action Summary		09/996,488	SCOTT ET AL.
		Examiner	**Art Unit**	
		Inder P Mehra	2666	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>*22 June 2004*</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>27-44</u> is/are pending in the application.

     4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>27-44</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>*28 November 2001*</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

     a)☐ All   b)☐ Some *   c)☐ None of:

         1.☐ Certified copies of the priority documents have been received.

         2.☐ Certified copies of the priority documents have been received in Application No. _____.

         3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)   4)☐ Interview Summary (PTO-413)
                                                    Paper No(s)/Mail Date. _____ .
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)   5)☐ Notice of Informal Patent Application (PTO-152)
3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)   6)☐ Other: _____ .
     Paper No(s)/Mail Date <u>7/12/04</u>.

DETAILED ACTION

1.   This is in response to amendment response dated: 6/22/04. Based on the amendment,

claims 1-26 have been cancelled and substituted by claims 27-44.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

3.   Claims 27-31, 34-40, and 43-44 are rejected under 35 U.S.C. 103(a) as being

unpatentable over **Luong** (US Patent No. 6,314,105) in view of **Holiday et al** (US Patent No.

6,381,219), hereinafter,Holiday.

For claims 27-28, 30, 36-37 and 39, Luong discloses a method for communicating

between nodes in a network via a switched virtual circuit (SVC) wherein the SVC is not broken

down between communication episodes, (refer to " an apparatus and method for determining

when to set up or tear down such a temporary transit path (SVC), refer to col. 3 lines 20-22, the

method comprising:

- establishing a connection between nodes by (refer to "creating a temporary path

  (SVC) for data packet", col. 3 lines 42-43;

  - monitoring current bandwidth usage between a first and second node,

    (refer to "bit rate measured", refer to abstract, and col. 3 lines 45-50,

    col. 4 lines 15-18, col. 9 lines 50-55;

- determining whether transmissions between the first and second nodes exceed a predetermined threshold, refer to col. 7 lines 34-57;

- responsive to the transmissions exceeding the predetermined threshold, establishing at least one SVC between the first and second nodes, wherein each end of the at least one SVC is connected to a first end point (126 and 102 in fig. 1A and fig. 1B) that is further connected to a first virtual termination (VT 128 in fig. 1A) present in the first node 126 and a second end point that is further connected to a second (VT, 130 in fig. 1A), in the second node 102, refer to abstract, col. 3 lines 20-26, col. 5 lines 5-10 and col. 7 lines 59-65; and

- responsive to a request from an end user in the first node to connect to an end user in the second node, connecting said first end user to the first VT 128 in fig. 1B, in the first node and connecting to the second end user via the previously established at least one SVC and the endpoint in the second node to the second VT 130 in fig. 1B, in the second node, refer to col. 2 lines 4-15 and col. 8 lines 20-25, col. 4 lines 1-5 and col. 8 lines 20-25; and

- upon receiving a request to disconnect (dismantle) the first and second users, disconnecting the first end user from the first VT and the second end user from the second VT while maintaining the SVC between the first and second nodes even though the SVG is Idle, refer to col. 2

lines 60-65, col. 3 lines 59-65, col. 8 lines 60-65 and col. 9 lines 60-67

and abstract.

Luong does not disclose the following limitation, which is disclosed by Holiday,

as follows:

- "while maintaining the SVC between the first and second nodes even though

  the SVC is Idle", refer to col. 4 lines 20-33.

- . "wherein a plurality of virtual terminations are available in each of the nodes",

  as recited by claims 28 and 37, refer to access interfaces 38 and 40 in figs. 1

  and 4b.

It would have been obvious to a person of ordinary skill in the art at the time of the

invention to use the capability of "while maintaining the SVC between the first and second

nodes even though the SVG is Idle", as taught by Holiday. The capability can be implemented by

combining the system as taught by Holiday at the user network interface (Media gateway). The

suggestion/motivation to do so would have been to maintain SVC circuits foe eventual use by the

end users.

For claims 29 and 38, Luong discloses all the limitations of subject matter of claims 29

and 38, including the following limitation:

- "wherein the SVC(s) remains connected as long as a predetermined number of

  circuits between the first and second nodes are active and bearing traffic", refer

  to abstract, steps 216 of fig. 2B, step 402 of fig. 4, and col. 2 lines 54-62.

For claims 31 and 40, Luong discloses all the limitations of subject matter of claims 31 and 40, including the following limitation:

- "wherein the predetermined threshold value is associated with the first and second nodes", refer to col. 4 lines 48 through col. 5 line 5, col. 7 lines 34-48 and col. 9 lines 50-60.

For claims 34 and 43, Luong discloses all the limitations of subject matter of claims 31 and 40, including the following limitation:

- "wherein the first and second nodes are media gateways and a media gateway controller controls both first and second nodes, refer to col. 7 lines 1-5 and lines 30-32, col. 9 lines 29-35 and col. 9 lines 45-50.

For claims 35 and 44, Luong discloses all the limitations of subject matter of claims 31 and 40, including the following limitation:

- "the media gateway controller monitoring the transmission between the first and second nodes", refer to col. 7 lines 1-5 and lines 30-32, col. 9 lines 29-35 and col. 9 lines 45-50.

- "comparing the monitored transmissions-----exceed the threshold, connecting the SVC between media gateways", refer to col. 7 lines 34-57, , refer to abstract, col. 3 lines 20-26, col. 5 lines 5-10 and col. 7 lines 59-65.

4.   Claims 32 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Luong**

(US Patent No. 6,314,105) in view of **Holiday et al** (US Patent No. 6,381,219), hereinafter,

holiday, in view of **Charas** (US Patent No. 6,781,960).

For claims 32 and 41, Luong and Holiday disclose all the limitations of subject matter,

With the exception of the following limitation, which is disclosed by Charas, as follows:

* "wherein the predetermined threshold value is stored in a data table specifying a

different threshold value, for each path or destination node(a sector identifier)", (refer to

"measuring a link quality of said received signal; storing, in a routing table, a sector identifier

and a link quality value identifying said at least·one sector if said link quality exceeds a

predetermined threshold value; and sending said routing table to a root multi-point node, refer to

col. 8 lines 9-14).

It would have been obvious to a person of ordinary skill in the art at the time of the

invention to use the capability of "storing threshold value", as taught by Charas. The capability

can be implemented by combining the system as taught by Charas at the user network interface.

The suggestion/motivation to do so would have been to maintain and add SVC circuits for

eventual use by the end users.

5.   laims 33 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Luong**

(US Patent No. 6,314,105) in view of **Holiday et al** (US Patent No. 6,381,219), hereinafter,

holiday, in view of **Li et al** (6,775,277), hereinafter, Li.

For claims 33 and 42, Luong and Holiday disclose all the limitations of subject matter,

including the following limitation

- "wherein the step of allowing the SVC to stay connected between the first and second nodes', refer to abstract, steps 216 of fig. 2B, step 402 of fig. 4, and col. 2 lines 54-62;

with the exception of the following limitation, which is disclosed by Li, as follows:

- "further comprises utilizing call control half calls between the first endpoint and the first VT and between the second endpoint and the second VT", refer to fig. 7 and col. 10 lines 2-6 and col. 10 lines 27-65.

It would have been obvious to a person of ordinary skill in the art at the time of the invention to use the capability of "haf calls", as taught by Li. The capability can be implemented by combining the system as taught by Li at the user network interface. The suggestion/motivation to do so would have been to maintain and add SVC circuits for eventual use by the end users.

Response to Arguments

Applicant's arguments filed 6/22/04 have been fully considered but they are not persuasive.

Applicant argues that Luong doe not maintain SVCs .

In response, it is stated that Holiday discloses maintaining SVc', "while maintaining the SVC between the first and second nodes even though the SVC is Idle", refer to col. 4 lines 20-33.

In light of above explanation, arguments by applicant are not persuasive.

Applicant's amendment necessitated the new ground(s) of rejection presented in this

Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this

final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Inder P Mehra whose telephone number is 571-272-3170. The

examiner can normally be reached on Monday through Friday from 8AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Seema Rao can be reached on 571-272-3174. The fax phone number for the

organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Inder P Mehra
Examiner
Art Unit 2666

DANG TON
PRIMARY EXAMINER